

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

ADAM LEE RICHEY, #125656

Plaintiff

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§
§

VS.

CIVIL ACTION NO. 4:17cv534

UNKNOWN LANIER, et. al.

Defendant

§
§

MEMORANDUM OPINION AND ORDER

Pro se Plaintiff Adam Lee Richey filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. On November 27, 2017, Plaintiff filed a notice to voluntarily dismiss the case (Dkt. #10).

Voluntary dismissals by a plaintiff are governed by Federal Rule of Civil Procedure 41(a)(1)(A) that provides, in pertinent part, “the plaintiff may dismiss an action without a court order by filing: (i) “a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment.” “Unless the notice...states otherwise, the dismissal is without prejudice.” Fed. R. Civ. P. 41(a)(1)(B). The notice of dismissal is self-effectuating and terminates the case in and of itself; no order or other action of the district court is required. *In re Amerijet Int'l, Inc.*, 785 F.3d 967, 973 (5th Cir. 2015) (per curiam). Thus, once a plaintiff has moved to dismiss under Rule 41(a)(1)(A)(i), the case is effectively terminated; the court has no power or discretion to deny plaintiff’s right to dismiss or to attach any condition or burden to that right. *Williams v. Ezell*, 531 F.2d 1261, 1264 (5th Cir. 1976); *In re Amerijet Int'l, Inc.*, 785 F.3d at 973; *Carter v. United States*, 547 F.2d 258, 259 (5th Cir. 1977) (plaintiff has absolute right to dismiss his complaint under Rule 41(a) prior to the filing of an answer or motion for summary judgment);

Ragsdale v. Classroom Teachers of Dallas, et. al., 2006 WL 3392192 (N.D. Tex. Nov. 15, 2006).

In the present case, Defendants have not filed an answer or a motion for summary judgment; thus, Plaintiff is entitled to the voluntary dismissal of the lawsuit without prejudice. Plaintiff's suit was dismissed the moment the notice (Dkt. #10) was filed with the clerk. Moreover, after a notice of voluntary dismissal is filed, the district court loses jurisdiction over the case. *In re Amerijet Int'l, Inc.*, 785 F.3d at 973.

It is **ORDERED** Plaintiff's notice of dismissal (Dkt. #10) is self-effectuating and terminates the case in and of itself, and the case is **DISMISSED** without prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i). All motions by any party not previously ruled upon are **DENIED**.

SIGNED this the 21st day of June, 2018.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE